

**ZB# 96-4**

**Golub Corp.  
(Price Chopper)**

**69-1-6**

Helim.

# 96-4- Golub Corp. (Price Choppers)

Sign - 69-1-6.

✓ Feb. 5, 1996.  
Notice to Paper: 2/27/96.  
Need copies: Letter out 2/29/96.

- ① Read ✓
- ② Title Report
- ③ Fees: \$150.00 Share  
500.00 other.
- ④ Photos. 4 here.

3/12/96  
Public Hearing: Not  
March 11, 1996. Held

Not enough Time  
from Publication

in News Paper on 3/12/96.

Notice to send on 3/12/96.  
Public Hearing: no quorum

March 25, 1995.

Letter out Notice to paper 3/26/96.  
Public Hearing:

✓ April 8, 1996.  
Motion to Close  
P.H.  
No action

Decision:

April 22, 1996.  
3-part Motion -  
Signs: 2 granted  
1 Super Center  
Denied

TOWN OF NEW WINDSOR  
555 Union Avenue  
New Windsor, NY 12550

# GENERAL RECEIPT

15334

Received of

*Golub Corp*

*2/29*

19 *96*

\$ *150.00*

*One Hundred Fifty*

DOLLARS

For

*ZBA App. Dec #96-4 100*

DISTRIBUTION:

FUND	CODE	AMOUNT
<i>CR 29554</i>		<i>150.00</i>

By

*D Hansen*

*Town Clerk*

Title

© WILLIAMSON LAW BOOK CO., VICTOR, N.Y. 14564



FUND	CODE	AMOUNT
CR 29554		150.00

By K. Hanson  
Town Clerk  
 Title

© WILLIAMSON LAW BOOK CO., VICTOR, N.Y. 14564







Aug - 69 - 1 - 6.



69-1-6.



APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: VGR Assoc. f Owner  
Golub Corp.

FILE # 96-4.

RESIDENTIAL: \$ 50.00  
 INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA ☒ Sign

USE ☐

APPLICATION FOR VARIANCE FEE . . . . . \$ 150.00

\* \* \* \* \*

ESCROW DEPOSIT FOR CONSULTANT FEES . . . . . \$ 500.00

DISBURSEMENTS -

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING - PER PAGE	2/5/96 - 22.50 pages	\$ <u>22.50</u>
2ND PRELIM. MEETING - PER PAGE	3/1/96 - 18 pages	\$ <u>18.00</u>
3RD PRELIM. MEETING - PER PAGE	3/28/96 - 1 page	\$ <u>4.50</u>
PUBLIC HEARING - PER PAGE	4/8/96 - 18 pages	\$ <u>81.00</u>
PUBLIC HEARING (CONT'D) PER PAGE	4/22/96 - 5 pages	\$ <u>22.50</u>
TOTAL . . . . .		\$ <u>148.50</u>

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING:	2/5/96	35.00	\$ <u>35.00</u>
2ND PRELIM.	3/1/96	35.00	\$ <u>35.00</u>
3RD PRELIM.	3/28/96	35.00	\$ <u>35.00</u>
PUBLIC HEARING	4/22/96	35.00	\$ <u>35.00</u>
PUBLIC HEARING	4/8/96	35.00	\$ <u>35.00</u>
TOTAL . . . . .			\$ <u>175.00</u>

MISC. CHARGES:

\_\_\_\_\_ TOTAL . . . . . \$ 323.50

LESS ESCROW DEPOSIT . . . \$ 500.00  
 (ADDL. CHARGES DUE) . . . \$ \_\_\_\_\_  
 REFUND DUE TO APPLICANT . \$ 176.50

(ZBA DISK#7-012192.FEE)

*Handwritten notes:*  
 Paid  
 CK # 295154  
 2/29/96  
 Paid  
 CK # 295125  
 2/29/96

Date May 1,....., 1996.

# TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553**

TO ..... Golub Corporation ..... DR.  
501 Duaneburg Rd. - P.O. Box 1074  
Schenectady, N.Y. 12301

DATE \_\_\_\_\_

**CLAIMED**

**ALLOWED**

[illegible]

**GOLUB**  
CORPORATION50-943  
213

295154

501 DUANESBURG RD. - ROTTERDAM - SCHENECTADY, N.Y. 12306

**P**AY TO THE  
ORDER OFTown of New Windsor  
555 Union Ave.  
New Windsor, N.Y. 12553

1S-295154	2-27-96	PAY EXACTLY
CHECK NUMBER	DATE	\$ **150.00*****

CHEMICAL BANK  
SYRACUSE, NEW YORK

AUTHORIZED SIGNATURE

26A Ap. Fee  
# 96-4  
⑈295154⑈ ⑆021309434⑆ 755⑈517032⑈**GOLUB**  
CORPORATION50-943  
213

295155

501 DUANESBURG RD. - ROTTERDAM - SCHENECTADY, N.Y. 12306

**P**AY TO THE  
ORDER OFTown of New Windsor  
555 Union Ave.  
New Windsor, N.Y. 12553

1S-295155	2-27-96	PAY EXACTLY
CHECK NUMBER	DATE	\$ **500.00

CHEMICAL BANK  
SYRACUSE, NEW YORK

AUTHORIZED SIGNATURE

26A Ap. Fee  
Escrow # 96-4  
⑈295155⑈ ⑆021309434⑆ 755⑈517032⑈

Date ..... 5/1/96 ..... 19.....

# TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Dr. DR.  
New Windsor NY 12553

DATE			CLAIMED	ALLOWED
4/28/96		Q Zoning Board Mtg	75 00	
		<del>Planning</del> Misc. - 2		
		Dicciacomo - 5		
		Vasquez - 3		
		Linderman - 4		
		<del>WBA Assoc</del> - 5 22.50.		
		Rothstein - 13		
		32	144 00	
			219 00	

DECISION: ~~MR. KRIEGER/SCHEIDT CORPORATION SIGN~~  
VARIANCES

MR. KRIEGER: At the end of the last hearing, there were two questions that you asked me to look into so I could render an opinion to you before you made a decision. One was with respect to the timing. When the other, not this application, feel within the requirements of the town law that application for a variance be made within 60 days of the determination of the building slash zoning inspector. The second question that you asked me to look into is with respect to the if and how to comply with the State Environmental Quality Review Act with respect to this application. With respect to the first question, upon reviewing the record, it appears that the first recorded instance of this applicant starting the application process was on May 5 when they appeared before the board for a Preliminary Hearing.

MR. TORLEY: February 5th?

MR. KRIEGER: When they appeared before the board for a Preliminary Hearing, that puts them within the 60 day requirement of the statute. And it is my opinion that they have complied with that. With respect to the SEQRA, however, it is necessary to before this application can be approved, to comply with SEQRA. I have made copies of and handed out to you the second and that is on the bottom of the page, the third part but I'm going to talk of the second part or the short form environmental assessment form. It is necessary that you make a finding with respect to A, B, C & D of that form. With respect to A, it is my opinion that the proper answer is no. With respect to B, again, I believe the proper answer to be no. With respect to C, 1 through 7, those are things that you will have to satisfy yourself on and likewise with respect to D. So you'll have to consider those and make your determinations as part of the record which you can do now if you wish. And then vote with respect to the determination of significance which is part 3, one of the two options on the bottom there check boxes in the bottom portion that is contained within the larger box. Everybody see that?

MR. TORLEY: All of this is referring to simply to the sign area variances?

MR. KRIEGER: Simply to the application in front of you which is for the signs, that is it, it's the only application in front of you.

MR. TORLEY: Having read these, I would feel that our proper answers to Section C, 1 through 7 is no in each case.

MR. NUGENT: You feel that way for D also?

MR. TORLEY: Yes, sir, and I would assume I also feel that there is no significant adverse environmental impact respective only to the sign variances.

MR. KRIEGER: So you're then addressing yourself to D?

MR. TORLEY: Yeah.

MR. KRIEGER: Under part 3, I'm sorry, it's the second box that you would like?

MR. TORLEY: Right.

MR. NUGENT: Any other discussion by any other board member?

MR. REIS: Rims are you looking for an opinion from each one of us individually?

MR. NUGENT: Only if you differ with what's given.

MR. KANE: I agree with the opinion given at this point.

MR. REIS: I'm comfortable with that.

MR. LANGANKE: I abstain.

MR. KRIEGER: You have to vote with respect to part 3 which box which you have elected and that needs a motion.



MR. TORLEY: Mr. Chairman, I move that we find and so indicate that this will not, this proposed action will not result if any significant adverse environmental impact.

MR. KANE: Second it.

ROLL CALL

MR. REIS            AYE  
MR. KANE            AYE  
MR. LANGANKE       ABSTAIN  
MR. TORLEY          AYE  
MR. NUGENT          AYE

MR. KRIEGER: Now vote on the application itself.

MR. KANE: Would you hear a motion on the application?

MR. NUGENT: Yes.

MR. TORLEY: Do you want to split it up?

MR. KANE: Yes, I do. I would like to split the application up into the different requested variance application, I believe there are three different requested variances.

MR. NUGENT: Yes, there is.

MR. REIS: Can we review that?

MR. NUGENT: The big sign, the bank sign and the 24 hour sign.

MR. TORLEY: No, big sign, super center and the 24 hour.

MR. KANE: Right, because the bank is a separate business.

MR. JOHN CAPPELLO, ESQ.: May I speak at any point?

MR. TORLEY: No.

April 22, 1996

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MR. CAPPELLO: Let the record reflect that, please.

MR. NUGENT: We can do it that way.

MR. KANE: I move that we grant the applicant the request for a variance on the large Price Chopper sign.

MR. TORLEY: Second it.

ROLL CALL

MR. REIS            AYE  
MR. KANE           AYE  
MR. LANGANKE      ABSTAIN  
MR. TORLEY        AYE  
MR. NUGENT        AYE

MR. KANE: I move we grant the variance for the applicant's request for variance on the super center sign.

MR. TORLEY: Second it.

ROLL CALL

MR. REIS           AYE  
MR. KANE           NO  
MR. LANGANKE      ABSTAIN  
MR. TORLEY        NO  
MR. NUGENT        AYE

MS. BARNHART: Motion dies.

MR. KRIEGER: Doesn't die, it fails.

MR. NUGENT: Number three is the 24 hour sign.

MR. KANE: So moved.

MR. TORLEY: Second it.

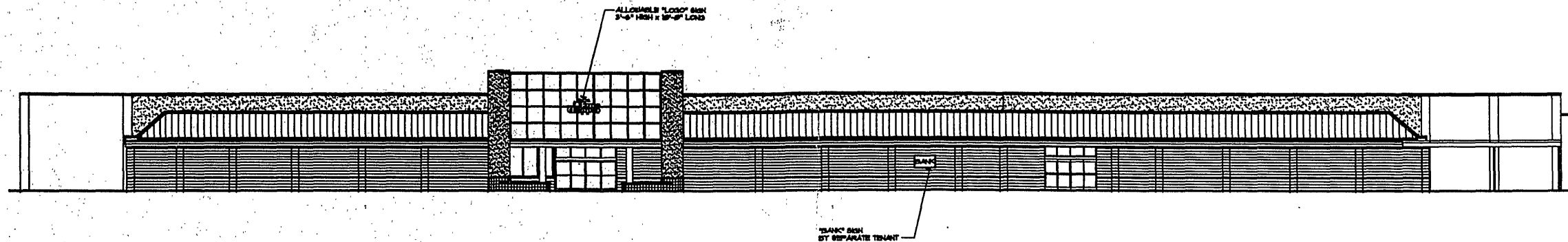
ROLL CALL

MR. REIS           AYE

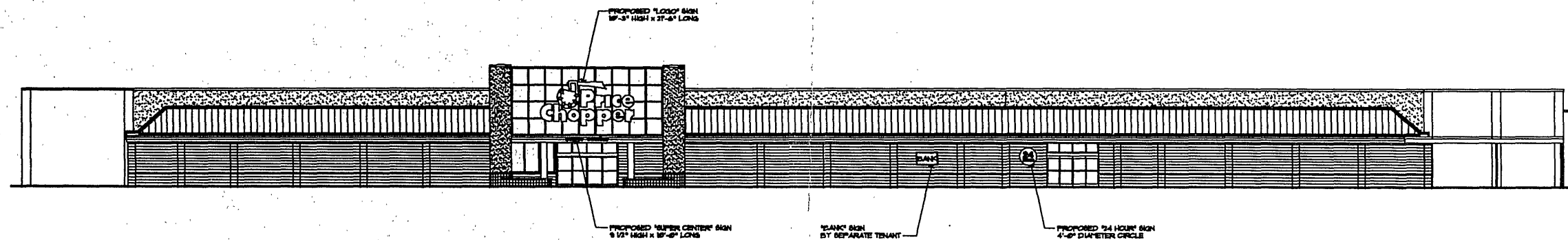
April 22, 1996

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MR. KANE AYE  
MR. LANGANKE ABSTAIN  
MR. TORLEY AYE  
MR. NUGENT AYE



1 EAST BUILDING FACADE - ALLOWABLE SIGNAGE  
 0/1 SCALE: 3/32" = 1'-0"



2 EAST BUILDING FACADE - PROPOSED SIGNAGE  
 0/1 SCALE: 3/32" = 1'-0"



3 FACADE LOGO SIGN  
 0/1 SCALE: 1/4" = 1'-0"

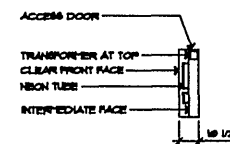
NOTES: PRICE CHOPPER LOGO SIGN

STANDARD H-CHANNEL CONSTRUCTION  
 ALL FASTENERS STAINLESS STEEL  
 HOUSING AND MATERIALS TO BE UL APPROVED  
 ALL HOLES IN FABRIC SEALED W/ SILICONE CAULK

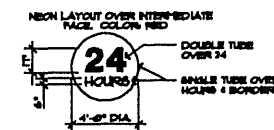
COLORS: COIN/AX LOGO - ROHM 4 HAAS 9648 - BLUE  
 LETTERS - ROHM 4 HAAS 9662 - RED  
 SUPER CENTER - ROHM 4 HAAS 9662 - RED  
 (lower case)



4 SUPER CENTER SIGN  
 0/1 SCALE: 1/4" = 1'-0"



SECTION



24 HOURS

NOTES:  
 ALL FASTENERS STAINLESS STEEL  
 HOUSING AND MATERIALS TO BE UL APPROVED  
 ALL HOLES TO BE SEALED W/ SILICONE CAULK  
 ACRYLIC INTERMEDIATE FACE LAYOUT  
 COLOR: WHITE  
 CHARACTER COLORS: 3662 RED

5 24 HOURS SIGN  
 0/1 SCALE: 1/4" = 1'-0"

SIGNAGE ALLOWED PER ZONING LAW:	
(1) FACADE SIGN PER TENANT	- 3'-6" x 10'-0" MAX
(1) FREESTANDING SIGN	- NOT TO EXCEED 6'4" TOTAL TOP OF SIGN 5'-0" ABOVE GRADE MAX.
PROPOSED SIGNAGE:	
(1) FACADE "LOGO" SIGN	- 10'-3" x 21'-6"
(1) FACADE "SUPER CENTER" SIGN	- 9 1/2" x 10'-0"
(1) FACADE "24 HOURS" SIGN	- 4'-0" DIAMETER

UNAPPROVED SIGNAGE OR VIOLATION OF ANY PROVISIONS OF THE ZONING LAW SHALL BE REMOVED AT THE OWNER'S EXPENSE

CONSULTANT

MKH designs @ architects  
 427 NEW KENTON ROAD, SUITE 6A, JERSEY, NJ 07003  
 (201) 462-7777

GOLUB CORPORATION  
**Price Chopper**  
 STORE #142  
 VAILS GATE, NEW YORK

PROPOSED EXTERIOR SIGNAGE

DATE	SCALE	NOTED	DESIGNED BY	APPROVED	CLIENT APPROVAL	DATE	CLIENT FINAL NO.

SHEET NO.

SN

# APPLICATION FOR VARIANCE

Date: FEB. 26, 1976

(a) VGR ASSOCIATES, 40E 69TH STREET, N.Y. N.Y. (212) 249-1550  
(Name, address and phone of Applicant) (Owner)

(b) GOLUB CORPORATION, 501 DUANESBURG RD. SCHENECTADY, N.Y. (518) 355-5000  
(Name, address and phone of ~~purchaser or~~ lessee)

(c) GOLUB CORPORATION, 501 DUANESBURG RD. SCHENECTADY, N.Y. (518) 355-5000  
(Name, address and phone of attorney)

(d) MKH DESIGNS, 427 NEW KARNER RD, SUITE 6A, ALBANY, N.Y. (518) 452-3470  
(Name, address and phone of ~~contractor/engineer/architect~~)

( ) Use Variance                      (~~X~~) Sign Variance  
 ( ) Area Variance                    ( ) Interpretation

(a) C TEMPLE HILL RD. (FORMER WALDBAUMS) 09/1/6 10.8 ACRES  
(Zone) (Address) (S B L) (Lot size)

(b) What other zones lie within 500 ft.? C

(c) Is a pending sale or lease subject to ZBA approval of this application? N/A.

(d) When was property purchased by present owner? 5/26/72.

(e) Has property been subdivided previously? N/A.

(f) Has property been subject of variance previously?                     .  
If so, when?                     .

(g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? N/A.

(h) Is there any outside storage at the property now or is any proposed? Describe in detail: N/A

(a) Use Variance requested from New Windsor Zoning Local Law,  
Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_,  
to allow:  
(Describe proposal)

N/A  
 (b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

N/A (c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes \_\_\_\_\_ No X.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance: N/A

(a) Area variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

\* Residential Districts only

\*\* No-residential districts only

N/A  
 (b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

N/A  
 whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(You may attach additional paperwork if more space is needed)

✓VI. Sign Variance:

(a) Variance requested from New Windsor Zoning Local Law, Section 48-18, Table of SUPP. SIGN Regs., Col. \_\_\_\_\_.

	<u>H(1)(b) [17] [3]</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
	<u>Requirements</u>		
Sign 1	<u>3.5 FT x 10 FT</u>	<u>10.27 FT x 21.5 FT</u>	<u>6.77 FT x 11.5 FT</u>
Sign 2	<u>3.5 FT x 10 FT</u>	<u>1.29 FT x 10 FT</u>	<u>-</u>
Sign 3	<u>3.5 FT x 10 FT</u>	<u>4 FT DIA.</u>	<u>.5 FT HEIGHT</u>
Sign 4	_____	_____	_____
TOTAL ALL WALL SIGNS	<u>1</u>	<u>3</u>	<u>2</u>

✓(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

SEE ATTACHED SHEET

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

✓(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

TOTAL AREA = 132 SQ. FT.

SIGN 1 = 114 SQ. FT., SIGN 2 = 5 SQ. FT., SIGN 3 = 13 SQ. FT.

VII. Interpretation. N/A

(a) Interpretation requested of New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

(b) Describe in detail the proposal before the Board:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

✓VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

SEE ATTACHED SHEET

✓ IX. Attachments required:

- ✓ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- ✓ Copy of tax map showing adjacent properties.
- ✓ Copy of contract of sale, lease or franchise agreement.
- N/A Copy of deed and title policy.
- ✓ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ✓ Copy(ies) of sign(s) with dimensions and location.
- ✓ Two (2) checks, one in the amount of \$ 150.00 and the second check in the amount of \$ 500.00, each payable to the TOWN OF NEW WINDSOR.
- ✓ Photographs of existing premises from several angles.

X. Affidavit.

Date: \_\_\_\_\_

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ORANGE )

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

X SEE ATTACHED PROXY  
(Applicant)

Sworn to before me this

\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

XI. ZBA Action:

(a) Public Hearing date: \_\_\_\_\_.



(b) Variance: Granted (\_\_\_\_) Denied (\_\_\_\_)

(c) Restrictions or conditions: \_\_\_\_\_

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NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

## Vails Gate Price Chopper - Zoning Board of Appeals Application for Variance

### VI. Sign Variance:

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

The signs proposed consist of three wall signs. Two are at the main entry and one at the secondary entry. The signs are the "standard" size and quantity used at all new Price Chopper supermarkets. The signs are the Price Chopper logo, "super center" sign (which is essentially an extension of the logo sign) which designates the type of Price Chopper this is and what offerings are available, and a "24 HOUR" sign. The building front is approximately 545' from the main entry at Rt. 300. The size of the main entry sign is in proportion to the size of the overall building whereas the allowable sign is barely readable from the highway. The "24 HOUR" sign is located on the wall adjacent to the secondary entry. The purpose of this sign is twofold, one; to state that the store is open all day and night, and two; to draw attention to the secondary entry which is approximately 110' from the main entry and less noticeable.

### VIII. Additional Comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning is fostered.

The zone in which the Price Chopper supermarket is located is a commercial zone. The store fronts a major three highway intersection. The highway at the intersection of Rt. 94 and Rt. 300 is lined with businesses, each with their own sign. The Price Chopper signs are not out of proportion to the size of the building, they are not unusually bright, obtrusive, or otherwise unusual looking. Many businesses in the immediate area of the Price Chopper store appear to have signs which are in excess of the zoning limits so the proposed Price Chopper signs will not be out of place or set a precedent. The intent and spirit of the New Windsor Zoning, as we interpret it, is to safeguard the interest of the residents of the Town by prohibiting the use of signs which will have a negative affect on the overall area. We believe that the signs proposed for use at Price Chopper are attractive, tastefully designed, and unobtrusive and therefore the quality of the zone in which the Price Chopper supermarket is located will not be affected by the installation of these signs.

PROXY AFFIDAVIT

FILED  
FEB 26 1996  
CLERK

SUBMISSION OF APPLICATION FOR VARIANCE # \_\_\_\_\_

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

STATE OF NEW YORK )  
                          ) SS.:  
COUNTY OF NEW YORK )

Irving S. Bobrow, being duly sworn, deposes  
and says: I am the Partner of V.G.R. Associates,  
A New York general partnership, the record owner of  
a certain parcel of land within the TOWN OF NEW WINDSOR  
designated as tax map SECTION 69 BLOCK 1 LOT 6.  
I HEREBY AUTHORIZE \_\_\_\_\_ of  
COLUP CORPORATION (company name)  
to make an application before the ZONING BOARD OF APPEALS as  
described in the within application.

Dated: February 27, 1996

Irving S. Bobrow  
(Signature of Corporate Officer)  
Title: General Partner

Sworn to before me this

27th day of February, 1996.

Michael D. Fanto  
Notary Public

(ZBA DISK#1-012996.CP)

MICHAEL DISANTO  
Notary Public, State of New York  
No. 41-4634173 Qualified in Queens Co.  
Commission Expires January 31, 1997

Date 3/27/96, 19.....

# TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Dr  
New Windsor NY 12553 DR.

[illegible]

March 25, 1996

9

PUBLIC HEARING

██

MR. NUGENT: Request for 6.77 ft. x 11.5 ft. sign variance for facade, plus a variation from Section 48-18H(1)9b)[1] of the supplemental sign regulations to allow more than one facade sign on future Price Chopper's Supermarket located in Vails Gate (formerly Waldbaum's) in a C zone. Ladies and gentlemen of the audience, I don't know who is here for the VGR Associates/Golub Corporation, but we don't have a voting quorum so we can't have that application tonight. Sorry for the inconvenience. The law requires that I have three people sitting on the board that can vote and we only have two so we'll not have that public hearing tonight. We have three members sitting but one is abstaining from the vote because he does business with them.

Date 3/21/96, 19.....


# TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Dr. DR.  
New Windsor NY 12553

DATE			CLAIMED	ALLOWED
3/11/96		Zoning Board Meeting	75 00	
		Misc. - 4		
		Lombardi - 3		
		Nasta - 3		
		<del>Free Chapter 4</del> 18.00		
		Mans/Dutchess - 20		
		SATS - 2		
		<u>36 pgs</u>	162 00	
			237 00	

PUBLIC HEARING:

  
MR. NUGENT: Request for 6.77 ft. x 11.5 ft. sign variance for facade, plus a variation from Section 48-18H(1)(b)[1] of the Supplemental Sign Regulations to allow more than one facade sign on future Price Shopper's Supermarket located in Vails Gate (formerly Waldbaum's) in a C zone.

Christie Daniels, Esq. appeared before the board for this request.

MS. DANIELS: It was my understanding that notice of this was published in the March 7 paper. When I called the town offices today to find out if this hearing was going to be on, I was told that the proper notice hadn't been given, the ten day notice and that therefore, the case wouldn't be heard.

MR. NUGENT: I should have a copy of it, just a minute.

MS. DANIELS: Our practical problem being that our architect is not here with us tonight because we were told it wouldn't be heard.

MR. NUGENT: It says I believe you're right, March 7, I have a copy of it.

MS. DANIELS: We're prepared to bring our architect at the meeting two weeks from now.

MR. TORLEY: If in fact the notice was only made on March 7, we simply cannot proceed tonight, we're not permitted to waive that.

MR. NUGENT: It was in the Sentinel on the fourth.

MR. BABCOCK: I checked the February 29th paper to see if it was in there and it was not.

MR. NUGENT: Then we have to postpone it, we have no choice.

MR. TORLEY: What kind of notification is required now?

MR. NUGENT: Nothing, it's got, it's ten days once it reaches the 17th.

MR. TORLEY: Well, though the announcement in the paper says tonight's date for the meeting?

MR. NUGENT: That is correct.

MR. TORLEY: So are they required to publish again with the corrected date?

MR. KRIEGER: Yes.

MR. NUGENT: Yes.

MS. DANIELS: We'll be willing to do that, of course.

MR. KRIEGER: There's time to do that and I think that is what's required.

MS. DANIELS: Okay, we'll do that, thank you.

MR. NUGENT: Do we need a motion?

MR. KRIEGER: No because you're going to have a new notice. You're not postponing this hearing cause you're not going to hold this hearing, you're going to hold a hearing later pursuant to another notification so it is not this one that you are going to hold.

MR. NUGENT: Okay.

MR. TORLEY: You understand the problem we have?

HOWARD PROTTER, ESQ.: If you can clarify the date and time that you'll be holding the public hearing for the record.

MR. NUGENT: The only problem with that is I have to get their notice back first.

MR. KRIEGER: Assuming this hearing has not been adjourned, the one that was notified because the notice



was too short, so it's a nullity. The next meeting is the 25th of March, we're not postponing this to the 25th of March, whether it occurs on the 25th of March or not depends on whether notice for that meeting is timely. So I can't tell you.

MR. PROTTER: I'm not sure what your normal protocol is. Is it your procedure to set the public hearing or the applicants?

MR. KRIEGER: The procedure is after they apply.

MR. NUGENT: They have to apply first and then we set it up.

MR. PROTTER: At what point is the public aware of whether there is a public hearing or not?

MR. NUGENT: It will be published in the newspaper.

MR. KRIEGER: If I remember the statute, ten days before.

MR. NUGENT: Ten days prior to the meeting.

MR. KRIEGER: So whether or not the publication occurs in time would determine whether or not that is going to go forward, doesn't leave them much time.

MR. KANE: If they want to have it published in time, they need to get it to the Sentinel by tomorrow to make Friday's edition which would give them enough time.

MR. BABCOCK: Thursday edition.

MR. KANE: By the time you get it, it's Friday, Thursday edition on Friday to get to that date so they'd have to do it by tomorrow to make that meeting.

MR. TORLEY: First thing in the morning, if you go down there.

MR. KRIEGER: I might also tell you you can always call the Zoning Board secretary to ask whether it's on the agenda or not. You're not required to but that is an

March 11, 1996

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option.

Date 2/26/96, 19.....

# TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO Frances R. H. 147 S. Lemoore Dr. DR.  
New Windsor NY 12553

DATE			CLAIMED	ALLOWED
2/5/96	Zoning Board Meeting		7500	
	Misc - 2			
	<del>VGA 5 - \$22.50</del> Sign			
	Schumacher - 5			
	mans - 6			
	Wal-Mart - 6			
	Arhott - 3			
	Petro Metal 5 - 19			
	him - 3			
	Price Chopper - 4			
	<u>53, 1295</u>		235 50	
			<u>313 50</u>	

PRELIMINARY MEETING:

VGR ASSOCIATES/GOLUB CORPORATION

MR. NUGENT: Request for 6.77 ft. x 11.5 ft. sign variance for facade, plus a variation from Section 48-18H(1)(b)[1] of the supplemental sign regulations to allow more than one facade sign on the future Price Choppers Supermarket located at Vails Gate (formerly Waldbaum's) in a C zone.

Mr. Stanley Hayes appeared before the board for this proposal.

MR. HAYES: My name is Stanley Hayes, we're architects for the Price Chopper Vails. Gentleman in the front row is Charles Leano (phonetic), project manager for the Golub Corporation, a parent of Price Chopper. What we'd like to present tonight is signage that we're looking to have for the new Price Chopper and to request a variance from the zoning regulations so that we can use this signage that is larger than the allowable. We have a reduced copy of the drawing that you see there and here's a couple more pictures. The drawing basically shows the signage that is allowable for the zoning regulations and the signage that we're proposing to use. This elevation shows the size which is allowable which is 3 foot 6 by foot. This sign over here is a bank sign, there will be a bank in the shopping center in the supermarket, it's a separate tenant and per our understanding of the zoning, separate tenant has their own sign so what we're looking at is basically the Price Chopper sign. This elevation here shows what we're looking at which is the main Price Chopper sign with the logo and supercenter sign directly underneath it and a 24 hour sign at the secondary entrance. Again, the bank sign we have shown on there but that is a separate tenant. The information on the bottom is various details pertaining to the individual signs, dimensions, construction for the letters and we have the bank's here.

MR. NUGENT: What's the length of the building, your part?

MR. HAYES: 275 feet across here. From the entry to Route 300 is approximately 540 feet and with the smallest sign 3 foot 6 by 10, which is allowable will be very difficult to see that sign from the road, as you can see with the elevation, it's very difficult to read what's there. The signage that we're proposing is well much larger, is more in proportion to the entry itself as well as the overall building. The supercenter sign is well separate from the main Price Chopper logo, is essentially another part of the Price Chopper sign. We have put it down lower primarily just to get it down here on this facade but essentially it's considered to be the same as the main logo. And again, we have 24 hour sign at the secondary entrance. The supercenter sign is used to denote what the individual quote unquote type of store is. The various Price Choppers have different signs, market places, food and pharmacy, depending on what's in the store. This particular store is considered a supercenter. The signage that we're looking at in this drawing is the standard Price Chopper signage. We're not looking at anything extraordinary for this. This is generally the sizes that are used actually the supercenter sign is a little bit smaller to get it to fit on the facade. One reason that we're proposing this signage is to keep some consistency between the various stores. There's been a lot of work done with the facade in general so that Price Chopper's looks similar. Obviously, the different stores, especially renovation, they can't all look identical, but we try to make the exterior similar to the other stores as possible. Therefore, we're looking to use the same standard signage so that the sizes are the same and the signs themselves which are up there are the same. The only thing that really differs here would be supercenter, as I mentioned, that varies from store to store depending on what the natural type is.

MR. NUGENT: Where is the lighting, behind it, inside?

MR. HAYES: They are inside, they are all illuminated and the 24 hour sign has neon as well for over the letters and numbers. One reason that we're looking at three signs again as I mentioned, we essentially are considering the supercenter to be part of the main sign

but as they are separated, we go to three. The reason that the 24 hour sign is down here is there's actually two reasons. One, for advertising purposes to note that the store is open 24 hours a day and the second is to draw attention to the secondary entrance down here, which is 110 feet away from the primary entrance. Basically, we didn't want to have to go into a lengthy discussion on the signs themselves, detail wise, most of it is here and I don't know if you have questions or there's other things you're looking for.

MR. KANE: For this application, the supercenter sign and the 24 hour sign, are they considered separate signs so we're going for two smaller signs, we're going for three altogether?

MR. BABCOCK: Right, we're saying there's three signs there.

MR. NUGENT: Total variance is only 6.77.

MR. BABCOCK: Yes.

MR. NUGENT: By 11 foot.

MR. BABCOCK: Yes.

MR. KANE: That is on the Price Chopper sign itself?

MR. BABCOCK: Yes.

MR. KANE: The other two which will be above the normal amount allowed are within--

MR. BABCOCK: Are within the normal amount.

MR. REIS: Considering the size of the building and the lack of other tenants, it seems that the request is very reasonable.

MR. NUGENT: I agree.

MR. LANGANKE: I have no questions.

MR. KANE: No questions.

MR. NUGENT: I'll accept a motion.

MR. KANE: Make a motion that we set up VGR Associates for the requested variance.

MR. REIS: Second the motion.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MS. BARNHART: I didn't send you any paperwork did I?

MR. HAYES: No.

MS. BARNHART: I didn't think so because I have got it right here.

MR. KRIEGER: Okay, when you come back, the criteria that must be considered or set forth under the state law I have prepared a sheet with the criteria which I ask that you take along with you along with the map I assume you want that.

MR. HAYES: You can have it.

MR. KRIEGER: Keep it.

MR. NUGENT: You might want to bring them to the public hearing.

MR. KRIEGER: If you would address yourself to those criteria at the public hearing, that would be helpful. I would like to see, I do not need to keep, but I would like to see a copy of the deed and copy of the title report.

MS. BARNHART: How about a lease, is there a lease?

MR. HAYES: Yes.

February 5, 1996

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MR. KRIEGER: Again, I don't have to keep them, just want to look at them.

MR. HAYES: Okay.

MR. NUGENT: That is it, you're done.

MR. HAYES: Thank you.



Date 4/19/96, 19.....

# TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Dr. DR.  
New Windsor NY 12553

DATE			CLAIMED	ALLOWED
4/8/96		Zoning Board Mtg.	75 00	
		Misc - 1		
		Dellums - 13		
		Petronella - 3		
		Burns - 2		
		Cikio - 3		
		UGR - 18 81.00		
		T+H - 3		
		Nasta - 3	207 00	
		46 pp		
			282 00	

VGR ASSOCIATES/GOLUB CORPORATION

MR. NUGENT: Request for 6.77 ft. x 11.5 ft. sign variance for facade, plus a variation from Section 48-18H(1)(b)[1] of the supplementary sign regulations to allow more than one facade sign on future Price Chopper's Supermarket located in a C zone.

Mr. Stanley Hayes appeared before the board for this proposal.

MR. HAYES: I am with M C & H Designs, we're the architects for this project. This is Christine Daniels with Golub Corporation. As was just read, we're here to request a variance for the supplemental side regulations to allow signage in excess of the allowable amount in terms of size and quantity. The first thing we'd like to present in this drawing which has an elevation of the supermarket with the signage that is allowed underneath that elevation of the signage that we're proposing and on the bottom are various details of the different signs. Zoning regulations allow a sign three foot six inches by 10 foot zero inches which is the size that is shown here. One other thing I should note we have shown a bank sign here, there will at some point in the future be a bank branch bank. within the supermarket meaning that can, that is a separate business there, sign does not fall under the allowable for Price Chopper. As I mentioned, this is the three foot six by 10 foot sign which is allowable. What we're requesting are three separate signs, main logo sign which is ten foot three inches high by 21 foot six inches long, a super center sign which is nine and a half inches high by ten feet long, a 24 hour sign which is four feet in diameter. All the signs are illuminated and the 24 hour sign has neon. These signs, the three of them are the same signs that are used at new Price Chopper Supermarkets. We're requesting to use these signs to keep consistency between the different stores. The interior design as well as the exterior design are all consistent with new Price Choppers we're trying to keep the signage consistent as well. The two signs each have a separate purpose, the logo sign is the main building sign has the Price Chopper name and logo and announces what this

building is. The super center sign is essentially an extension of the logo, it tells what type of store it is and designates, gives a clue as to some of the services and offerings that are available in the store, 24 hour sign has two purposes. First, it states that the building is open 24 hours a day and second, it draws attention to this secondary entry exit at this end of the building which is approximately 110 feet away from the main entrance.

MR. REIS: That is an exit only on the right?

MR. HAYES: No, they are both entry exit, they are sliding doors. According to the zoning regulations, the review of a request for variance was the benefit to the applicant versus the detriment to the health, safety and welfare of the public. Considerations include whether it's a radical departure from the intent of the law, whether it will cause a change in the character of the neighborhood and whether it will otherwise be detrimental to public welfare. In addressing those concerns, we would like to first start with benefit to the applicant. The obvious benefit to the Price Chopper Supermarkets that the public driving by will be able to see this sign whereas this sign here is going to be extremely difficult to read from the highway. This section drawing that we like to present is an enlarged copy of the tax map upon which we have drawn, the Price Chopper supermarket, and the adjacent stores on that, the adjacent sing of the shopping center and the bank and have also labeled many but not all of the businesses at this intersection. Price Chopper is located in a commercial zone at the intersection of highway 94, 32, 300, the setback from highway number 300 is approximately 540 feet and with the adjacent buildings on the side and the adjacent stores out at the road, the view of the signage is going to be limited to a few locations.

MR. KANE: There will be no freestanding sign for Price Chopper?

MR. HAYES: Not at this point.

MR. REIS: Do you know of any intent to have a

freestanding sign?

MR. HAYES: Not at this point.

MR. TORLEY: I would suggest your principle, if they are not asking for variance on it now, if they decide later it better fit the code.

MR. HAYES: As far as?

MR. TORLEY: Size.

MR. HAYES: Yes, definitely.

MR. HAYES: As you can see, this intersection has numerous businesses as you continue through the intersection along Route 32, there are many more businesses as well as a large shopping center. Many of the businesses in here have signs of many types and sizes, many of which appear to be in excess of the size that is allowed by the zoning regulations. And many signs either because of the size or the proximity to the highway have a much greater visual impact than the signage that we're proposing for Price Chopper. For this reason, we do not believe that this proposal is a radical departure as noted in zoning. Also, the main logo sign which is the larger sign that we're proposing here is proportionately appropriate for the size of the building. Price Choppers store is approximately 275 feet long, the entry that the logo is attached to is approximately 27 feet. This sign here is much more proportionate, is much more correct than the size that is allowable. Bear in mind this is the main sign for the building, people drive by are going to look at this and try to figure out what's taking place in here. Because the two are one on top of the other, and fitting this into the three foot six by ten foot limit the P in Price and C in Chopper which are capitals would be the larger letters of the sign and they would be one foot four and a half inches high. Now, again 540 feet, the foot setback one foot high it's going to be very difficult to read the sign. The supercenter sign is nine and a half inches high and that will be just about impossible to read from the road and the primary purpose of this sign is for the benefit of the

customers already in the parking lot in the vicinity of the main entry. The 24 hour sign is underneath a building canopy, there's a canopy which is approximately ten feet off the sidewalk which runs the entire length of the building, approximately ten feet deep and the 24 hour sign at building face underneath this ten by ten canopy, again that would be difficult to see from the highway. And again, the primary purpose is for the benefit of the customers in the parking lot and as mentioned earlier, to draw attention to the secondary entry. Because primarily these two signs would be extremely difficult to read, we do not feel that they'll be a detriment to the neighborhood, changes in the character or otherwise be, have an adverse affect on the neighborhood. Next item that we'd like to present is this first one is a photo taken of a Price Chopper that is currently under construction, the width of the entry, the height, the glass area is identical to the Vails Gate Price Chopper. The signage that is on this here is the same size and is the size that we're proposing, only difference is this particular one has different offerings. So instead of a supercenter sign, it has food and pharmacy. Other than that, it's the same. As I mentioned earlier, the light is illuminated, the light is within the sign, it doesn't shine on the building. This is a photo of a similar sign, this one wasn't operating at the time the photos were taken, so we had to take another one. The only difference is there is no supercenter or food and pharmacy below it. As you can see, this is not bright at all and this combined with the 540 foot setback, the sign should not have any impact on traffic, should not be a detriment to the neighborhood or otherwise a change in character.

MR. KANE: Can I ask you a question? In this particular picture here they have a smaller neon signs in the windows, are they part of the sign regulations, would they be allowed to do that?

MR. BABCOCK: Not interior, no, they are exempt from the sign ordinance.

MR. TORLEY: That store seems perfectly happy without the second sign over the entrance.

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MR. HAYES: Actually, that store has the sign, they have moved it down to this level.

MR. TORLEY: Well, as our building inspector pointed out, signs are inside the structure, I guess if they can be, they can be seen from the outside or not counted so why not get rid of it. It's kind of obvious that that is the entrance, why not get rid of the sign directly over the nine inch high one. Clearly you're asking for four times, roughly four times the amount of signage the code permits. It's a relatively new code and you want another sign right under it to say this is the entrance where you have got a big sign that says Price Chopper, I think most of your customers probably can figure out that is the entrance.

MR. HAYES: Right, it's more of a matter of as I said before, an extension of the entrance is a sign to tell what the store is about. They are not going to see this sign from the road. You're going to see the Price Chopper and as you get up close to it then you're going to see that it is a supercenter.

MR. KANE: Is the supercenter sign illuminated?

MR. HAYES: Yes.

MR. KRIEGER: If I understand the drawings correctly, the facade or elevation of the building will not change regardless of the size of the sign?

MR. HAYES: Correct.

MR. KRIEGER: And there's no additional sign proposed other than those that you proposed on the facade of the building.

MR. HAYES: At that time, correct.

MR. KRIEGER: Located at a shopping center that has adjacent commercial buildings.

MR. HAYES: Right, this portion of the building is a tire store, this portion is billiards, so the Price

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Chopper is in here and the main entry primarily where the arrow is.

MR. KRIEGER: What's the building right next to it?

MR. HAYES: These are stores in here.

MR. TORLEY: Hardware store.

MR. HAYES: Mattress place, pizza place.

MR. KRIEGER: All stores of some sort?

MR. HAYES: Right, yes. Again, basically, this signage is in our opinion attractive, unobtrusive and an appropriate size for the building and its setback faces a major intersection and again, because of the adjacent buildings, the sight line to the signage is going to be limited to a couple locations. And as I mentioned earlier two of the signs you're really not going to see except in the parking lot, it's so they should have no impact on the neighborhood at all. Therefore, it is our contention that this proposed signage is in character with the neighborhood, is not a radical departure from the adjacent signage or the neighborhood in general, will not be causing adverse affect or be a change in the character of the neighborhood and therefore, we ask that the variance be granted for the installation of this signage.

MR. NUGENT: Mike, I'd like to ask you a question. You have heard squared area, even though there's no letters in that particular area, I'm looking at the Price Chopper right here.

MR. BABCOCK: Yes, we went to the highest part of the logo to the longest point.

MR. NUGENT: Any other questions from the board?

MR. KANE: Not at this time.

MR. NUGENT: I'll now open it to the audience. Anybody would like to speak, please state your name for the stenographer and try not to be repetitious.

MS. BARNHART: Before you do, may I just say that I have an affidavit of service by mail stating that on February 29, 1996, I sent out 49 addressed envelopes containing the notice of public hearing up to the people that were on the list.

JOHN CAPPELLO, ESQ.: John Cappello, I'm an attorney with Jacobowitz and Gubits, I'm here representing Dwight Nellums, Mark Capicotto and Linda Champaign, SNJ Corporation, all residents of the Town of New Windsor. Few comments on the application. First one I think should be important to you as I just found out in the last one I have a copy here of the Notice of Disapproval of building permit application unsigned from the building inspector dated December 12, 1995, I have a copy of the application for variance, it's dated February 26, 1996, the proxy which I guess is important is dated February 27, 1996 that is more than 60 days, this is the applicant who obviously had notice on December 12, that they were denied a building permit so in and of itself, based on your recent decision, I think this application is denied and you must comply with the law. There are various other comments I have. First of all, the application is complete, there's been no SEQRA compliance evidenced in the file that we can see. 1996 revisions of SEQRA law exempt the granting of individual setback and lot line variances which this is not and the granting of area variances for single family, two family or three family residences. This doesn't fall into any of those categories. I think it's especially important that you comply with SEQRA, you have, since this proposed sign is probably less than 500 feet from the Edmondston House which is listed on National Historic Register, we as SNJ Corporation have had contrary to comments which were made have met with the town officials to discuss our application. One of the first things they raised was the importance of the Edmondston House, that is why we're in the process of doing Phase 1A and Phase 1B cultural resource services on the project. So I think that is something that the board must consider, at least a view shed analysis is warranted. Next is the procedure set forth in zoning code 48-34 have not been complied with, your code requires from the record your code requires



that if land involved in an appeals lies within 500 feet of any of the following areas such application be accompanied by the notice of public hearing, shall be forwarded to the Orange County Planning Department by the town collector, review in accordance with the provisions of Article 12B Sections 239L and 239M of the General Municipal Law at least ten days prior to the public hearing. One of the instances a right-of-way, within 500 feet of the right-of-way of any existing or proposed county or parkway, thruway expressway, road or highway, this is located on a county road.

MR. NUGENT: That is not relevant anymore, they don't want to see us anymore.

MR. CAPPELLO: The application is also not complete because it does not list all the variances required. There are several variances required for this application. The first one a variance is required from the use and bulk tables for the commercial zone. Variance is required from section on bulk tables regarding the requirements that banks obtain site plan approval. Banks have different parking requirements, banks are different use, it's been disclosed to you that a bank is proposed for this application. It's a different use, therefore requires site plan approval or variance from this board saying they do not have to comply with site plan approval. A variance is required from the off-street parking. They are proposing a hundred thirty some thousand square foot shopping center and bank, the only approved site plan shows 748 spaces, presently there are only 405 spaces, your code requires 5.5 off-street spaces per one thousand square feet of floor area, which would work out to over 600 spaces. Record shows and the applicant discloses in the application that no previous variance was granted granting a variance from those parking requirements. There is no variance required from the requirement for site development planned review which is in Section 48-19 entitled site development plan review which states in all cases local law requires approval of site plans, no building permit shall be issued by the zoning inspector, upon authorization of and in conformance with the plans approved by the planning board. The plans that are presently shown do not comply with any

plans that have been approved by the planning board. There's been no approval of the location of the sign. If you look in your use tables under signs, it says for businesses located in shopping centers, one indirectly illuminated sign for each such business may be located on the building facade facing the street or streets as directed by the planning board. There is no evidence that the planning board has reviewed the location of the sign or done any other review of the site plan as is required by your code. There is also evidence that the parking has been altered, new drainage lines have been put in, a new grease trap is being located that is not shown on this plan. Front columns have been reduced, the parking aisles have been reduced. And of course, the present configuration does not comply with the code. There is also no request for variance from the duty to require a special permit. The same code provision I read regarding signs requires that after as directed by the planning board it says with the total sign area not to exceed ten percent of the sign area as associated with such business and in no event more than 20 square feet the vertical dimension of any such sign described above shall not exceed two feet except by special permit of the zoning board of appeals. There is no record of any special permit application being filed, no record of any variance.

MR. NUGENT: We don't deal with special permits and the only thing I'm dealing with on this application, sir, is the sign, period.

MR. CAPPELLO: I'm reviewing--

MR. NUGENT: That is all we're dealing with is the sign variance, that is all.

MR. CAPPELLO: I'm responding on the sign.

MR. NUGENT: As long as you understand.

MR. CAPPELLO: I'm responding on the sign variance application, since it's not, since I'm surprised you're dealing with at all since it's not time, this sign variance is not within minimum variance required to accomplish the use proposed for the land. There are

four other variances required. I believe at not your last meeting but the meeting before that you had stated on the record that you like to take care of everything in one brush when an application comes in front of you, there are other variances that are required for this property, there are other permits that are required for this property, they should all be disclosed. SEQRA should be done for the entire thing, for the entire application, otherwise it's segmentation under SEQRA. And last thing I'd like to discuss is the jurisdiction of the board. Once an application is filed to this board, be it a sign variance or be it any variance application, it's a variance that is submitted based on an action by the zoning enforcement officer or building inspector. Once an application is in front of you, you have all the powers and duties of that officer who the appeal was applied from to do what they should have done in the first place. I'm going to read for you from 267B. Permitted actions by the board of appeals, orders, requirements, decisions, interpretations or determinations, the board of appeals may reverse or affirm wholly or partly or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and to this end shall have all the powers and duties of the administrative official from whose order, requirement, decision, interpretation or determination the appeal has taken. Now that you have an application in front of you, be it from anybody, you have jurisdiction over the review of this plan, you have the duty if a building permit was so required for any of this action to require that site plan review prior to that building permit. You now have the jurisdiction, it's in your ball game. You also have the duty to impose conditions, your case on law says in all cases where the board of appeals grants a variance from the strict application of the requirements of this local law, it shall be the duty of such board to attach such conditions and safeguards as may be required so that results of its action may be as nearly as possible in accordance with the spirit and intent of the local law. The spirit and intent of the

local, that law is that you provide enough parking on the site to comply with the ordinance, any condition or any approval of any variance should be conditioned upon site plan approval and review of the, of the entire application by the planning board, by your own planning board. Your code Section 48-19 on site plan review requires that location plans and elevations of details of any outdoor signs be provided on site plan. There is no site plan approved by the planning board showing the details and location of this outdoor sign. Until that is done, how can you approve a variance to make it larger. Therefore, for that reason, that reason alone, it requires referral back to the planning board. Once the planning board receives it, the planning board must, the zoning inspector and planning board engineer must report to the planning board whether the plan meets the requirements of all of the zoning law provisions. And shall also make recommendation for the modifications to the plan in order that the plan or amendment thereof shall be consistent with the regulations. So, it's clear here this plan does not comply. To grant a variance allowing the applicant relief from any zoning regulations when it doesn't comply with at least four provisions of the zoning regulations is clearly outside the scope of any reasonable law and is frankly arbitrary and capricious. I thank you for your time.

MR. NUGENT: Anyone else?

MS. ELIZABETH KILPOWSKI (PHONETIC): I wasn't born in town but I have lived here 20 years so I do feel as though I am part of the town. His proposal concerns the impact to the residents and to the area. As being non-hazardous, I can't imagine where he can even get that from, that is the most, busiest, most hazardous intersection in town and to go and put an illuminated sign and even a neon sign that is going to distract the view of the flow of traffic, people are going to look to see what it is, I would imagine because the business is going to be there, traffic will increase. So you are going to have heavier traffic and people are going to be glancing over looking at these illuminated signs and neon signs, I should think it has a very hazardous impact upon the local area and residents of the Town of

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New Windsor. It's an awful intersection right now, it can only get worse with this lighting and the additional traffic that is going to distract people.

MR. NUGENT: Thank you. Anyone else?

MR. BILL HARNETT: 9 Forest Hill Road, New Windsor. To elaborate on what Lizzy said and to compliment the gentleman in his presentation regarding the facts that he brought to light, one the size of the sign so people can see it and two, the fact that other signs in the area don't seem to comply with the current sign code, I have a luxury of working nights and two weeks ago, I spent ten hours in the parking lot at intermittent times, breakfast, lunch and dinner and monitored the traffic on both 207, 300, the north, south and 94 on the south. I gave these, the same photos to Mike Babcock two weeks to the try to get a replay relative to whether they do comply with zoning because as I pass these around, you'll notice that these impede the vision and the line of sight on Route 94 to the entrance, both egress and exit. To have another sign to what Lizzy said would detract from that can cause a significant health and safety hazard to the Town of New Windsor and the residents. Not only that, in the morning, a bus drops off in the afternoon, picks up children directly about 80 feet to the west of a one entrance and exit point, so if you would, I'd like you to pass these around and see that. I gave these to Mike two weeks ago Wednesday and I haven't received a reply, whether relative to this signage that exists is good or bad, I also expressed a traffic safety concern to the New Windsor traffic safety office near the Town of New Windsor last Wednesday when I, two Wednesdays ago when I gave those to Mike, needless to say they were very evasive with regards to any concerns at all with that intersection. When I asked to speak to the officer in charge, the traffic safety officer relative to those placard type signs that are imminent hazards, the young lady went to the back, had a conference behind the door, came out me and said the traffic safety officer was unavailable. When I asked her name, she wouldn't lie to me that time, told me the name and that individual has been there for a half hour standing behind her so for some reason, they are keeping their

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hands off an imminent traffic safety hazard and that intersection in lieu of that it should be flatly denied until a complete traffic safety study is done at the Vails Gate intersection, that intersection is not only unique to New Windsor but unique to all of Orange County where the five roads converge. I'd respectfully request that a complete traffic study, safety study be done before any decision is made. Thank you.

MR. NUGENT: Thank you. Anyone else?

MR. MARK CAPICOTTO: I live on 13 Lewis Drive. I have lived in New Windsor for 38 years. I find it interesting that people that don't live in the area tell us what is aesthetically pleasing to us when our own zoning board has taken great liberty, I shouldn't say liberty, but time to come up with their own zoning ordinance for signs. I just, I think that you guys should make that decision. They shouldn't be here trying to change your decision. That is all.

MR. NUGENT: Thank you. Anyone else? We'll close the public hearing and open it back up to the board for further discussion.

MR. TORLEY: Question, would you, I don't know if you have the previous occupant there, the previous shopping center, that is in what's going to be the Price Chopper was Waldbaums, do you recall how big their sign was?

MR. HAYES: We have been able to find no information that had any sign areas for the Waldbaums store.

MR. TORLEY: Off the top of my head, my recollection was you probably remember this better than I do how big was the Waldbaums about the same size we're talking here?

MR. CAPPELLO: 748 spaces, I don't know how big the sign is.

MR. TORLEY: John, how big, do you remember how big the Waldbaums sign was, is it about the same size as the Price Chopper sign?

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MR. NUGENT: It was Barker's before that.

MR. TORLEY: I do have a question about the timeliness, can we make sure we're within our appropriate time lines for when the denial was issued and when the appeal was made, sir, can you speak to that?

MR. TORLEY: When the denial was issued.

MR. BABCOCK: Only do denials, I sent the denial to this board, I don't know when the board received an application.

MR. KANE: This originally was supposed to come before us but there was a lack of time in the newspaper, if you remember correctly, so there were some extenuating circumstances.

MR. NUGENT: And last meeting we couldn't vote.

MR. TORLEY: I'm talking about when they filed the appeal.

MR. CAPPELLO: I have the application and the Notice of Disapproval with the dates on it.

MR. NUGENT: Can you read the dates?

MR. CAPPELLO: Yeah, the Notice of Disapproval is dated December 12, 1995 and the application is dated February 26, 1996 and proxy dated February 27, that is both over 60 days.

MR. NUGENT: My only comment to this whole matter is that the building has an allowed size.

MR. TORLEY: We're only talking about the sign.

MR. NUGENT: Strictly the sign.

MR. TORLEY: Question is has the applicant met the timeliness requirements which our attorney said was handed to us by State Code.

MR. CHARLES L. LINO: Can I speak on behalf of the

applicant? I am part of the applicant. Not being an attorney, but I don't believe that whatever he's talking about relates to going for a sign variance, we can come in for a sign variance without being rejected first if we know by fact that we're coming for something that the basic ordinance asks for and we're coming for more, we can come in for a sign variance at any time and I recommend, I think logic says and there is logic even in the law, I believe that an applicant coming in for a variance need not get denied if he knows there is a variance right there. So I don't see where the time constraint applies. Secondly, and I think very importantly, I think this size sign for this type operation is very, very much in keeping with other businesses throughout the town and even businesses that are competitors to ourselves and I think it would be patently very unreasonable to get a disproportionately small sign and all we're asking is a sign variance. We're not asking for site plan review or anything like that. I can't understand all the dialogue.

MR. NUGENT: I know that.

MR. TORLEY: You're correct, this sign, the main logo sign is consistent with some of the other signs with businesses with large structures. My only question is are we by state statute compelled to force the decision by the timeliness and ask our attorney whether we're stuck with that.

MR. KRIEGER: Without specifically looking with respect to sign variances, the objectant's attorney makes a point that requires further inquiry. The fact of the matter is 267 does say that an appeal does have to be filed within 60 days of a determination, whether it's denial or granting or whatever it is, a determination on its face it appears to me so far that it is outside that requirement, whether that requirement applies specifically to sign variances is something that I am not prepared to say at this point. But he does raise a valid point that requires in my mind some looking at.

MR. TORLEY: Mr. Chairman, would it then be in order for us to rather than close this public hearing to adjourn it so we can ask so our attorney can give us



the appropriate advice regarding this matter. I don't want to make a decision tonight, that is incorrect.

MR. REIS: Can I ask a question please?

MR. NUGENT: Sure.

MR. REIS: If we're very straightforward, there's been a lot of dialogue, lot of pluses and minuses about whether they should have a sign or not. I'd like to know if we're empowered to make a decision tonight? Personally I'm ready to make a decision if we're allowed legally to do so and if we're not allowed legally to do so, we should adjourn or dismiss for now but if we can make it, let's get on with it.

MR. TORLEY: I think I would like to hear our attorney's recommendation regarding that. I don't know, I'm not claiming expertise.

MR. KRIEGER: Concerning the board has the, in terms of power, the board has the power to make a decision tonight. It cannot, however, make a decision after considering any recommendation on my part because I'm not prepared to render a recommendation at this point, for the reasons I previously stated. So, while the board has that power, it is up to the members of the board whether it is whether they desire to use that power the board also has the power to close the public hearing but not vote. The board also has the power to adjourn the public hearing if it wants and not close it and not vote so you have three options. I think that encompasses all of them.

MR. TORLEY: Absent the problem of timeliness, I would agree with you about making the vote tonight. I'm just concerned that we do this properly. Cause frankly, that factor's never been discussed before to my knowledge. I would also, based on our previous experience, I would not want to close the public hearing and not vote. I'd much rather adjourn than close because if we close the public hearing, we get no more input from anyone other than the applicant. Is that correct?

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MR. KRIEGER: Correct.

MR. TORLEY: I dislike making the applicant wait but I would move Mr. Chairman if you accept the motion that we adjourn the public hearing.

MR. KANE: I don't agree.

MR. KRIEGER: Once it is moved and seconded, the vote is moved and seconded and if you wish to discuss the motion on the floor before a vote is taken, that is fine.

MR. TORLEY: I would move that we adjourn the public hearing so that we may obtain further advice from our counsel.

MR. NUGENT: Is there a second? Motion fails for lack of a second.

MR. KANE: As far as I can read in here and I see the 60 day thing is a waiver on a denial by the building or zoning inspector, this is not a denial, this is an application to do something in advance of doing it so there can be no turndowns when he needs to come in and file for a variance, Larry, it just can't happen like if I want to do my deck, what makes me decide I have 60 days to come in, the rest of the people we're dealing with, there's no denial on the sign here, this is in advance of building the sign, excuse me, this is not a public hearing, this is a private discussion.

MR. CAPPELLO: I have a copy of the denial of the sign if you want to deny it exists. Go ahead.

MR. NUGENT: We have the denial.

MR. KANE: Is it?

MR. BABCOCK: Yeah.

MR. NUGENT: That is the only way we act on it.

MR. TORLEY: As I said, this is the first time that I recall this coming up on the time line and the question

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is whether timeliness applies to sign variances or not. Absent that, I'd be perfectly happy to I make a decision tonight, assume we make a decision granting all the variances, then it comes back that we're beyond our time line and we should not have granted the application at all. If we didn't know that it wouldn't bother me. Now that we have been told that, this may be a problem.

MR. NUGENT: That is fine but I think we're carrying this way too far. I think what we should do is close the public hearing and then when we get the information from our attorney, make a decision.

MR. TORLEY: In that case, Mr. Chairman, I move we close the public hearing.

MR. KANE: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. NUGENT: You'll have to wait for a decision.

MR. KRIEGER: Put it on the next agenda.

MR. TORLEY: Would our attorney also please as he researches this show us what the options are, if in fact we have gone beyond the time line.

Prelim.  
Feb. 26, 1996.  
# 96-4

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR  
ORANGE COUNTY, NY

*Owner: V. G. ...  
40 E. 69th St.  
NY, NY 10021*

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: DECEMBER 12, 1995

APPLICANT: STORM KING CONTRACTING, INC.  
P.O. BOX 550  
NEWBURGH, N.Y. 12551

*Golub Corp. (Tenant)  
(Price Chopper)*

*Stanley Hays - MKH Design  
518-452-3470  
Architect*

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: DECEMBER 12, 1995

FOR (BUILDING PERMIT): EXTERIOR SIGNS

LOCATED AT: PRICE CHOPPER

ZONE C

DESCRIPTION OF EXISTING SITE: SEC: 69, BLOCK: 1, LOT: 6  
FUTURE PRICE CHOPPER SUPER MARKET

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. FACADE (PRICE CHOPPER) SIGN EXCEEDS MAXIMUM OF 3.5FT. X 10FT.
2. ONLY ONE (1) FACADE SIGN PERMITTED.

*48-18" H (1) (6) [ ]*

*Ernst Schmidt*

BUILDING INSPECTOR

\*\*\*\*\*

PERMITTED	ALLOWED	PROPOSED AVAILABLE	VARIANCE REQUEST
ZONE C	USE		
WALL SIGNS	3.5FT. X 10FT.	10.27FT. X 31.5FT	6.77FT. X 11.5FT.
TOTAL ALL WALLS SIGNS	1	3	2

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT  
914-563-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD OF  
APPEALS.

CC: Z.B.A., APPLICANT, B.P. FILE

**IMPORTANT**  
**REQUIRED INSPECTIONS OF CONSTRUCTION - YOU MUST CALL FOR THESE**

OTHER INSPECTIONS WILL BE MADE IN MOST CASES, BUT THOSE LISTED BELOW MUST BE MADE OR CERTIFICATE OF OCCUPANCY MAY BE WITHHELD. DO NOT MISTAKE AN UNSCHEDULED INSPECTION FOR ONE OF THOSE LISTED BELOW. UNLESS AN INSPECTION REPORT IS LEFT ON THE JOB INDICATING APPROVAL OF ONE OF THESE INSPECTIONS, IT HAS NOT BEEN APPROVED, AND IT IS IMPROPER TO CONTINUE BEYOND THAT POINT IN THE WORK. ANY DISAPPROVED WORK MUST BE REINSPECTED AFTER CORRECTION.

1. WHEN EXCAVATING IS COMPLETE AND FOOTING FORMS ARE IN PLACE (BEFORE POURING).
2. FOUNDATION INSPECTION. CHECK HERE FOR WATERPROOFING AND FOOTINGS DRAINS.
3. INSPECT GRAVEL BASE UNDER CONCRETE FLOORS, AND UNDERSLAB PLUMBING.
4. WHEN FRAMING IS COMPLETED, AND BEFORE IT IS COVERED FROM INSIDE, AND PLUMBING ROUGH-IN.
5. INSULATION.
6. PLUMBING FINAL & FINAL HAVE ON HAND ELECTRICAL INSPECTION DATA AND FINAL CERTIFIED PLOT PLAN. BUILDING IS TO BE COMPLETED AT THIS TIME. WELL WATER TEST REQUIRED AND ENGINEERS CERTIFICATION LETTER FOR SEPTIC SYSTEM REQUIRED.
7. DRIVEWAY INSPECTION MUST MEET APPROVAL OF TOWN HIGHWAY INSPECTOR. A DRIVEWAY BOND MAY BE REQUIRED.
8. \$20.00 CHARGE FOR ANY SITE THAT CALLS FOR THE INSPECTION TWICE.
9. PERMIT NUMBER MUST BE CALLED IN WITH EACH INSPECTION.
10. THERE WILL BE NO INSPECTIONS UNLESS YELLOW PERMIT CARD IS POSTED.
11. SEWER PERMITS MUST BE OBTAINED ALONG WITH BUILDING PERMITS FOR NEW HOUSES.
12. SEPTIC PERMIT MUST BE SUBMITTED WITH ENGINEER'S DRAWING & PERC TEST.
13. ROAD OPENING PERMITS MUST OBTAINED FROM TOWN CLERKS OFFICE.
14. ALL BUILDING PERMITS WILL NEED A CERTIFICATION OF OCCUPANCY OR A CERTIFICATE OF COMPLIANCE AND THERE IS A FEE FOR THIS

Name of Owner of Premises GOLUB CORPORATION  
Address 501 DUANE SBURG ROAD, SCHENECTADY NY 12306 Phone 518-356-8601  
Name of Architect MKH DESIGN'S - ARCHITECTS  
Address 427 NEW KARNER RD. SUITE 6A, ALBANY NY 12205 Phone 518-452-3470  
Name of Contractor STORM KING CONTRACTING, INC.  
Address P.O. BOX 550 NEWBURGH NY 12551 Phone 914-561-0717  
State whether applicant is owner, lessee, agent, architect, engineer or builder  
If applicant is a corporation, signature of duly authorized officer.

Dean W. J.  
(Name and title of corporate officer)

1. On what street is property located? On the North side of Rt. 94  
(N.S.E. or W.)  
and 500 feet from the intersection of Route 32
2. Zone or use district in which premises are situated ..... Is property a flood zone? Yes..... No.....
3. Tax Map description of property: Section..... Block..... Lot.....
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.  
a. Existing use and occupancy Supermarket b. Intended use and occupancy SAME
5. Nature of work (check which applicable): New Building..... Addition..... Alteration..... Repair.....  
Removal..... Demolition..... Other EXTERIOR SIGNS
6. Size of lot: Front Rear..... Depth..... Front Yard..... Rear Yard..... Side Yard.....  
Is this a corner lot? .....
7. Dimensions of entire new construction: Front..... Rear..... Depth..... Height..... Number of stories.....
8. If dwelling, number of dwelling units..... Number of dwelling units on each floor.....  
Number of bedrooms..... Baths..... Toilets.....  
Heating Plant: Gas..... Oil..... Electric/Hot Air..... Hot Water.....  
If Garage, number of cars.....
9. If business, commercial or mixed occupancy, specify nature and extent of each type of use .....
10. Estimated cost..... Fee.....  
(to be paid on this application)
11. School District .....

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

TOWN OF NEW WINDSOR, ORANGE COUNTY, N. Y.

TOWN OF NEW WINDSOR, ORANGE COUNTY, N. Y.

Examined.....19.....  
Approved.....19.....  
Disapproved a/c.....  
Permit No. ....

Office Of Building Inspector  
Michael L. Babcock  
Town Hall, 555 Union Avenue  
New Windsor, New York 12550  
Telephone 565-8807

Refer -

Planning Board.....  
Highway.....  
Sewer.....  
Water.....  
Zoning Board of Appeals .....

APPLICATION FOR BUILDING PERMIT

Pursuant to New York State Building Code and Town Ordinances

Date.....19.....

INSTRUCTIONS

- a. This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
- b. Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram which is part of this application.
- c. This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- d. The work covered by this application may not be commenced before the issuance of a Building Permit.
- e. Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- f. No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions or alterations, or for removal or demolition or use of property, as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

*John T. Johnson*  
(Signature of Applicant)

*Stoelm R. K. Contracting Co., P.O. Box 550, New Windsor NY*  
(Address of Applicant) 12551

PLOT PLAN

NOTE: Locate all buildings and indicate all set-back dimensions.  
Applicant must indicate the building line or lines clearly and distinctly on the drawings.

IMPORTANT  
REQUIRED INSPECTIONS OF CONSTRUCTION - YOU MUST CALL FOR THESE

S

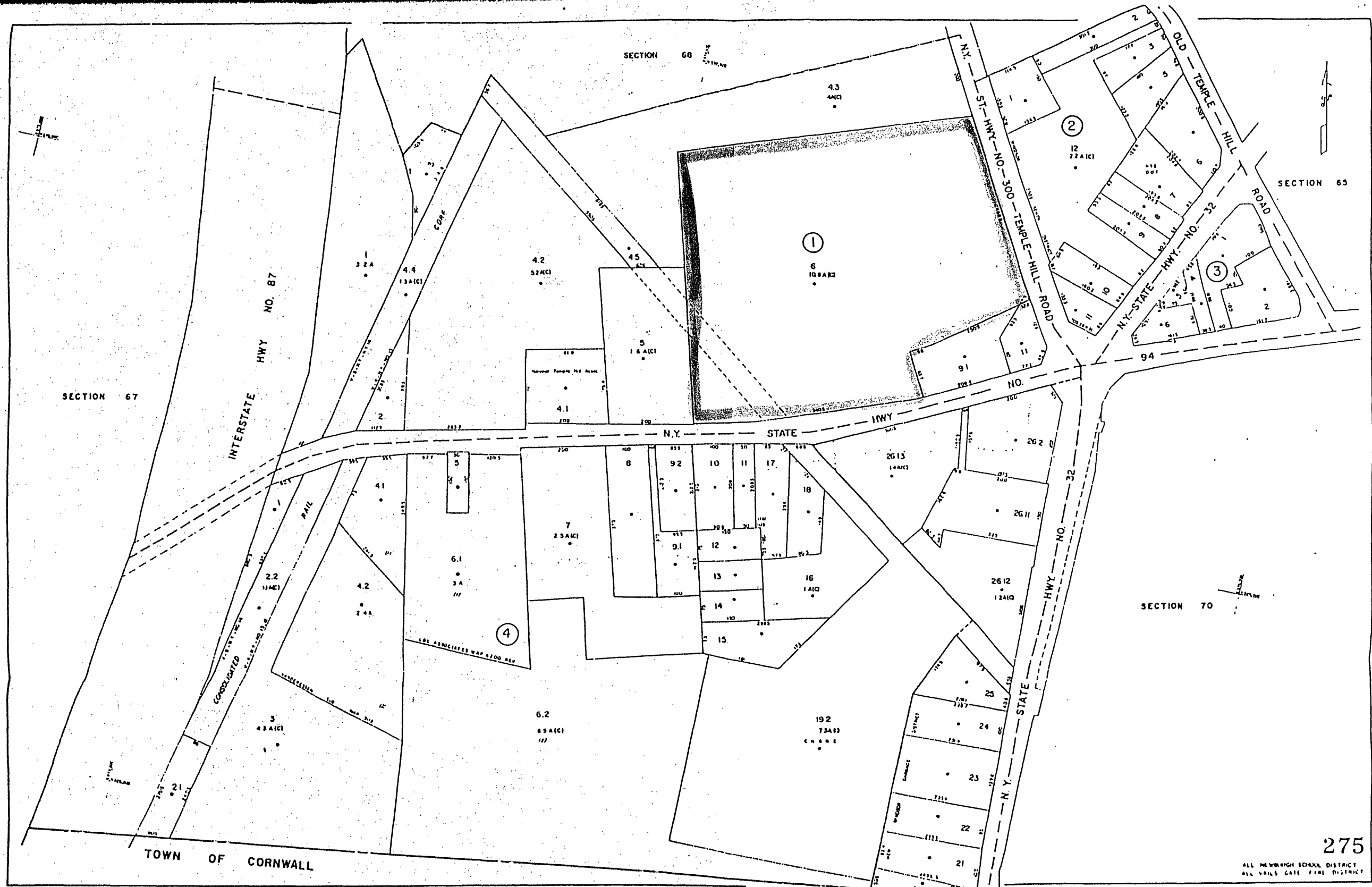
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SEE ATTACHED PLANS

N





AERO SERVICE CORPORATION  
FOR TAX PURPOSES ONLY  
NOT TO BE USED FOR CONVEYANCE

LEGEND			
STATE OF NEW YORK	FILED PLAN NO.	FILED PLAN NO.	FILED PLAN NO.
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ORANGE COUNTY-NEW YORK  
Photo No. 8-497,998-15-43  
Date of Photo 1-1-43  
Date of Map 3-24-41  
Date of Revision 1-1-71  
Scale 1" = 40'

TOWN OF NEW WINDSOR  
Section No. 69

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR  
COUNTY OF ORANGE : STATE OF NEW YORK

-----X  
In the Matter of Application for Variance of

V6R Assocs./ Golub Corp.

Applicant.

AFFIDAVIT OF  
SERVICE  
BY MAIL

#96-4.  
-----X

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE )

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On March 27, 1996, I compared the 49 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart  
Patricia A. Barnhart

Sworn to before me this

28th day of March, 1996.

Patricia E. O'Brien  
Notary Public

PATRICIA E. O'BRIEN  
Notary Public, State of New York  
Residing in County of Orange  
No. 4641498  
Commission Expires Feb. 28, 1998

(TA DOCDISK#7-030586.AOS)



JEFF GOULDING/The Record

Nathan Boye of the Hamlet of Wallkill builds a platform so that carpenters can continue to build an overhang

at the new home of a future Price Chopper in the Town of New Windsor.

# Opponents' plea fails

## *Zoning Board's delay helps soon-to-open store*

By DAVE L'HEUREUX  
Staff Writer

NEW WINDSOR — Citing the unexpected lack of a quorum, the town Zoning Board of Appeals last night declined to set a public hearing for one of the opponents of a soon-to-open Price Chopper supermarket.

The delay means principals of SNJ Corp., a local firm, will be unable to address their concerns until the 75,515-square-foot grocery store is ready to open in the Vails Gate Shopping Center. SNJ and other opponents want the town to subject Price Chopper to a full site-plan review, but the town has refused to do so.

"Time is of the essence here," John C. Cappello, the lawyer for SNJ, told ZBA members. "We have been trying to be heard since January, and now it's almost April. Some accommodation has to be provided."

Based in Vails Gate, SNJ Corp. is buying about 1.6 acres of developable land just west of the future

**With only two members legally able to vote, ZBA Chairman James Nugent said the board could do nothing until its next meeting on April 8.**

Price Chopper. It has joined Big V Corp., the corporate parent of the regional ShopRite grocery chains, in seeking to delay the Price Chopper opening until the town undertakes a full site-plan review.

Town officials say Price Chopper needed no site-plan review because it was merely renovating space occupied by a Waldbaum's supermarket until three years ago. In par-

ticular, ZBA members have declined to challenge the town's read issuance of building approvals to Price Chopper, saying they had no jurisdiction.

"There is no need to lecture this board once again," Andrew S. Krieger, the ZBA attorney, told Cappello.

About 15 to 20 employees of the nearby ShopRite store at Big Plaza attended the ZBA meeting, but had no chance to speak.

The ZBA was unable to set a public hearing for SNJ Corp. after only three of its five members attended last night's meeting, and one of them disqualified himself from voting because of a potential conflict of interest from his own business. With only two members legally able to vote, ZBA Chairman James Nugent said the board could do nothing until its next meeting on April 8.

Nugent declined Cappello's request to call a special ZBA meeting to act on the public hearing, which requires at least 10 days' prior notice before it can be held.

Pls. publish immediately. Send bill to: Storm King Contracting, Inc.  
P.O. Box 550 - Newb.

PUBLIC NOTICE OF HEARING BEFORE  
ZONING BOARD OF APPEALS  
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 4

Request of VGR Assocs. & Golub Corp.

for a VARIANCE of the Zoning Local Law to permit:

two facade signs which exceed the permitted area; plus  
more than the allowable facade signs by two;

being a VARIANCE of Section 48-18 4(1)(b) [1], [3] of  
the Supplemental Sign Regs.

for property situated as follows:

N/S of Route 94 (formerly Waldbaum's), New  
Windsor, N.Y.

known as tax lot Section 69 Block 1 Lot 6.

SAID HEARING will take place on the 8th day of April,  
1996, at New Windsor Town Hall, 555 Union Avenue, New Windsor,  
New York, beginning at 7:30 o'clock P. M.

James Nugent  
Chairman

By: Patricia A. Barnhart, Secy.

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR  
COUNTY OF ORANGE : STATE OF NEW YORK

-----X  
In the Matter of Application for Variance of

VGB Assocs./Golub Corp.

Applicant.

AFFIDAVIT OF  
SERVICE  
BY MAIL

#96-4.

-----X  
STATE OF NEW YORK )  
                          ) SS.:  
COUNTY OF ORANGE )

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age  
and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On March 14, 1996, I compared the 49 addressed  
envelopes containing the attached Notice of Public Hearing with  
the certified list provided by the Assessor regarding the above  
application for variance and I find that the addressees are  
identical to the list received. I then mailed the envelopes in a  
U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart  
Patricia A. Barnhart

Sworn to before me this  
14<sup>th</sup> day of March, 1996.

Deborah Green  
Notary Public

DEBORAH GREEN  
Notary Public, State of New York  
Qualified in Orange County  
# 4984065  
Commission Expires July 15, 1997

(TA DOCDISK#7-030586.AOS)

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR  
COUNTY OF ORANGE : STATE OF NEW YORK

-----x  
In the Matter of Application for Variance of

Golub Corp./VER ASSOC.

Applicant.

AFFIDAVIT OF  
SERVICE  
BY MAIL

#96-4

-----x  
STATE OF NEW YORK )  
                          ) SS.:  
COUNTY OF ORANGE )

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On February 29, 1996, I compared the 49 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart  
Patricia A. Barnhart

Sworn to before me this  
29<sup>th</sup> day of February, 1996.

Deborah Green  
Notary Public

DEBORAH GREEN  
Notary Public, State of New York  
Qualified in Orange County  
# 4984065  
Commission Expires July 15, 1997

(TA DOCDISK#7-030586.AOS)

## MEMORANDUM OF LEASE

This Memorandum of Lease is made this 2<sup>nd</sup> day of October, 1995, between V.G.R. Associates, a New York general partnership (hereinafter referred to as "Landlord"), and Vail's Gate LLC, a New York limited liability corporation (hereinafter referred to as "Tenant").

*Attest 4/6/557 Blooming Green Tpk New Windsor NY 12553*  
WITNESSETH:

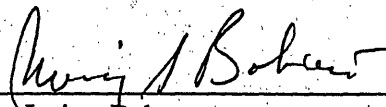
Landlord and Tenant have entered into a Lease (the "Lease") dated September 30, 1995, whereby Landlord has leased to Tenant a portion of the Shopping Center (the "Shopping Center") located on certain real property (the "Property"), in New Windsor, Orange County, New York, the legal description of which Property is set forth on Exhibit "A" attached hereto. The Lease contains provisions and rights appurtenant to the Property, some of which are as follows:

- I. Term. The term of the Lease is for a period of twenty-five (25) years, commencing on October 1, 1995. Thereafter, Tenant has the right under the Lease to renew and extend the term of the Lease for four (4) successive periods of five (5) years each.
- II. Exclusive Use Rights. The Lease provides that Landlord, during the term of the Lease, will not rent or permit any space in the Shopping Center to be used as a food market at any time and/or for the sale of off-premises consumption of fresh fruit, frozen fruit, vegetables, groceries, dairy products, meats, poultry, dairy appetizer or any food and/or food products of any nature whatsoever now or hereafter sold in any supermarket. The Lease also sets forth certain limited exceptions to the foregoing restrictions.
- III. Successors. The covenants, conditions and agreements made and entered into by the parties hereto shall be binding upon and inure to the benefits of their respective heirs, administrators, executors, representatives, successors and assigns.
- IV. Incorporation of Lease. All terms and conditions of the Lease are hereby incorporated herein by reference as if fully set forth herein.
- V. Conflicts with Lease. This Memorandum of Lease is solely for notice and recording purposes and shall not be construed to alter modify, expand, diminish or supplement the provisions of the Lease. In the event of any inconsistency

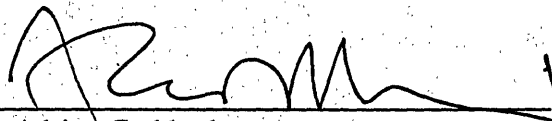
between the provisions of this Memorandum of Lease and the provisions of the Lease, the provisions of the Lease shall govern.

IN WITNESS WHEREOF, this Memorandum of Lease has been duly executed by the parties hereto as of the day and year first above written.

V.G.R. Associates, a New York general partnership

By:   
Name: Irving Bobrow  
Title: General ~~Manager~~ Partner

VAIL'S GATE LLC, a New York limited liability corporation

By:   
Name: Adrian Goddard  
Title: Manager



[Acknowledgment of Tenant]

THE STATE OF NEW YORK

COUNTY OF New York

On Sept 30, 1995 before me

Personally appeared before me, a Notary Public in and for the above County and State, Adrian Goddard, known personally by me and acknowledged by me to be on the date of execution, Maryfer of Vail's Gate LLC and he/she executed the foregoing for on behalf of same. Presiding agent for the person herein certified by sign the name of the County by Notary as Manager.

Witnessed by hand and this notarial seal, this 30th day of September, 1995.

ROBERT J. SNEERINGER  
Notary Public, State of New York  
Qualified in Albany County  
No. 4949393  
Commission Expires April 3, 1997

[Signature]  
Notary Public in and for the  
State and County aforesaid

My Commission Expires:  
\_\_\_\_\_

\_\_\_\_\_  
(Printed Name of Notary)

LIBER 4290PG 116

[Acknowledgment of Landlord]

THE STATE OF New York §  
COUNTY OF New York §  
§

Personally appeared before me, a Notary Public in and for the above County and State, Irving Bobrow, known personally by me and acknowledged by me to be on the date of execution the general partner of V.G.R. Associates, a New York general partnership and he executed the foregoing for and on behalf of said general partnership.

Witnessed by hand and this notarial seal, this 30th day of September, 1995.

ROBERT J. SNEERINGER  
Notary Public, State of New York  
Qualified in Albany County  
No. 4949393  
Commission Expires April 3, 1997

  
Notary Public in and for the  
State and County aforesaid

\_\_\_\_\_  
(Printed Name of Notary)

My Commission Expires:  
\_\_\_\_\_

LIBER 4290PG 117

EXHIBIT A

LEGAL DESCRIPTION

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of New Windsor, County of Orange and State of New York, bounded and described as follows:

BEGINNING at a point on the westerly side of Stewart Field Road at the northeast corner of land now or formerly of Nicholas Marshall;

Thence along the westerly side of Stewart Field Road, North 18° 55' 50" West 13.87 feet and North 15° 46' 20" West 454.68 feet to land now or formerly of Curtis and Margaret Miller;

Thence along said land South 84° 06' 00" West 695.37 feet to a stone wall and land now or formerly of Sarah Ettinger;

Thence along said land, part of the way along a stone wall, South 1° 30' 50" East 656.42 feet to the northerly side of New York State Highway Route 94;

Thence along said Route 94, South 89° 56' 20" East 259.17 feet, North 81° 56' 05" East 199.74 feet, and North 78° 34' 20" East 89.11 feet to land now or formerly of Arthur Robin;

Thence along said land of Robin North 15° 24' 20" West 114.18 and North 74° 35' 40" East 55.90 feet to land now or formerly of Helen Satterly;

Thence along said land of Satterly and land now or formerly of Nicholas Marshall North 65° 33' 40" East 257.71 feet to the point and place of beginning.

Record and Return to:  
Vail's Gate LLC  
557 Blooming Grove Turnpike  
New Windsor, New York 12553

## MEMORANDUM OF SUBLEASE

This Memorandum of Sublease is made this 1<sup>st</sup> day of October, 1995, between Price Chopper Operating Co., Inc., a New York corporation (hereinafter referred to as "Subtenant"), and Vail's Gate LLC, a New York limited liability corporation (hereinafter referred to as "Sublandlord").

### W I T N E S S E T H

Sublandlord and Subtenant have entered into a sublease (the "Sublease"), dated as of October 1, 1995, whereby Sublandlord has leased to Subtenant a portion of the Shopping Center (the "Shopping Center") located on certain real property (the "Property"), in New Windsor, Orange County, New York, the legal description of which Property is set forth on Exhibit "A" attached hereto,. The Sublease contains provisions and rights appurtenant to the Property, some of which are as follows:

I. TERM: The term of the Sublease is for a period of twenty-five (25) years, commencing on October 1, 1995. Thereafter, Subtenant has the right under the Sublease to renew and extend the term of the Sublease for four (4) successive periods of five (5) years each.

II. SUCCESSORS: The covenants, conditions and agreements made and entered into by the parties hereto shall be binding upon and insure to the benefits of their respective heirs, administrators, executors, representatives, successors and assigns.

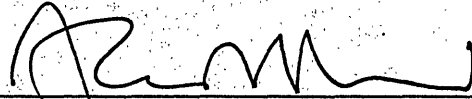
III. INCORPORATION OF SUBLEASE: all terms and conditions of the Sublease are hereby incorporated herein by reference as if fully set forth herein.

IV. CONFLICTS WITH LEASE: This Memorandum of Sublease is solely for notice and recording purposes and shall not be construed to alter, modify, expand, diminish or supplement the provisions of the Sublease. In the event of any inconsistency between the provisions

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, the day and year first above written.

**SUBLANDLORD:**

VAIL'S GATE LLC, a New York limited liability company

By:  (Seal)  
Its: ~~Adrian Goddard~~, Authorized Manager

**SUBTENANT:**

PRICE CHOPPER OPERATING CO., INC., a New York corporation


By:  (Seal)  
Its: Chairman of the Board and CEO

EXHIBIT A

LEGAL DESCRIPTION

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of New Windsor, County of Orange and State of New York, bounded and described as follows:

BEGINNING at a point on the westerly side of Stewart Field Road at the northeast corner of land now or formerly of Nicholas Marshall;

Thence along the westerly side of Stewart Field Road, North  $18^{\circ} 55' 50''$  West 13.87 feet and North  $15^{\circ} 46' 20''$  West 454.68 feet to land now or formerly of Curtis and Margaret Miller;

Thence along said land South  $84^{\circ} 06' 00''$  West 695.37 feet to a stone wall and land now or formerly of Sarah Ettinger;

Thence along said land, part of the way along a stone wall, South  $1^{\circ} 30' 50''$  East 656.42 feet to the northerly side of New York State Highway Route 94;

Thence along said Route 94, South  $89^{\circ} 56' 20''$  East 259.17 feet, North  $81^{\circ} 56' 05''$  East 199.74 feet, and North  $78^{\circ} 34' 20''$  East 89.11 feet to land now or formerly of Arthur Robin;

Thence along said land of Robin North  $15^{\circ} 24' 20''$  West 114.18 and North  $74^{\circ} 35' 40''$  East 55.90 feet to land now or formerly of Helen Satterly;

Thence along said land of Satterly and land now or formerly of Nicholas Marshall North  $65^{\circ} 33' 40''$  East 257.71 feet to the point and place of beginning.



1763

# TOWN OF NEW WINDSOR

555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

49

February 26, 1996

Storm King Contracting  
c/o VGR Associates  
40 E. 69th St.  
New York, NY 10021

Re: Tax Map Parcel #69-1-6

Gentlemen:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$65.00, minus your deposit of \$25.00. Please remit the balance of \$40.00 to the Town Clerk's office.

Sincerely,

*Leslie Cook* (cmo)

LESLIE COOK  
Sole Assessor

/cmo  
Attachments

cc: Patricia A. Barnhart, ZBA

National Temple Hill Assoc Inc  
Temple Hill Road  
Vails Gate. NY 12584

Walsky, Harold &  
Duarte, Graciano  
PO Box 8648  
Woodcliff Lake. NJ 07675

Route 300 Associates  
c/o John Yanaklis  
550 Hamilton Ave  
Brooklyn, NY 11232

County of Orange  
255-275 Main Street  
Goshen. NY 10924

Ettinger, Howard W. & Sarah P.  
200 Honey Lane  
Wappinger Falls, NY 12590

Prekas, Steve  
3 Warden Circle  
Newburgh. NY 12550

Prekas, Steve  
c/o AC&IS Foods Inc  
PO Box 212  
Vails Gate. NY 12584

Storage Equities Inc.  
& PS Partners Ltd  
PO Box 25025  
Glendale, CA 91201-5025

West Point Tours Inc.  
PO Box 125  
Vails Gate. NY 12584

Bernhardt, Coleen J. & Robert G.  
PO Box 407  
Vails Gate. NY 12584

Boneri, Jean C.  
Box 526  
Vails Gate. NY 12584

Simonson, Richard & Helen  
Box 485  
Vails Gate. NY 12584

Brewer, Ella  
Box 527  
Vails Gate. NY 12584



Albany Savings Bank  
94 Broadway  
Newburgh, NY 12550

R & S Foods Inc.  
249 North Craig St  
Pittsburgh, PA 15213

NYS Dept. of Transportation  
Office of State Comptroller  
A.E. Smith Office Building  
Albany, NY 12236

Grana, John  
PO Box 317  
Vails Gate, NY 12584

Primavera Properties Inc.  
PO Box 177  
Vails Gate, NY 12584

Angelo Rosmarino Enterprises Inc.  
PO Box 392  
Vails Gate, NY 12584

Amerada Hess Corp.  
c/o Dean E. Cole, Manager  
Property Tax Department  
1 Hess Plaza  
Woodbridge, New Jersey 07095

FFCA Acquisition Corp  
17207 North Perimeter Drive  
Scottsdale, AZ 85255

TGS Associates Inc.  
15 East Market Street  
Red hook, NY 12571

S & S Properties Inc.  
123 Quaker Road  
Highland Mills, NY 10930

Conna Corporation  
c/o Dairy Mart #6668  
One Vision Drive  
Enfield, CT 06082  
Attn: Prop. Admin. Dept

Leonardo, Constantine  
94 Maple Street  
Newburgh, NY 12550

Leonardo, Samuel  
7 Dogwood Hills Road  
Newburgh, NY 12550

Brewer, Wilbur  
PO Box 610  
Vails Gate, NY 12584

Ernst, Jay K.  
2465 Palisades Ave.  
Apt. 3E  
Bronx, NY 10463

Brewer, Walter  
PO Box 293  
Vails Gate, NY 12584

McMillen, Mary  
PO Box 153  
Vails Gate, NY 12584

Brewer, Russell A. Jr. & Ruth Ann  
Route 94, Box 103  
Vails Gate, NY 12584

Brewer, Helen, Ida Mae & Michael  
PO Box 293  
Vails Gate, NY 12584

Deyo, Beatrice &  
Scherf, Lawrence Arthur & Hannah  
PO Box 293  
Vails Gate, NY 12584

Central Hudson Gas & Electric Corp  
284 South Ave.  
Poughkeepsie, NY 12601

Franchise Realty Interstate Corp.  
c/o Colley & McCoy Co.  
PO Box 360  
Windham, NH 03087

Gardner, Fred &  
Slepoy, Andrew  
& William & Jacqueline  
c/o Slepoy Family Trust &  
Fred Gardner #2  
104 S. Central Avenue  
Room 20  
Valley Stream, NY 11580-5461

Mobil Oil Corporation  
Property Tax Department  
PO Box 290  
Dallas, Texas 75221

MCB Partnership  
Route 211 East & Carpenter Ave  
Middletown, NY 10940

House of Apache Properties LTD  
52 Elm Street  
Huntington, NY 11743

Hughes, Terry Scott  
18 Ellison Drive  
New Windsor, NY 12553

Gardner Plus 3  
104 S. Central Ave  
Valley Stream, NY 11580-5461

Orange County IDA  
c/o Strober King Building Supply  
PO Box 726  
Vails gate, NY 12584

Sy Realty Corp.  
550 Hamilton Ave.  
Brooklyn, NY 11232

Consolidated Rail Corp.  
Property Tax Dept.  
PO Box 8499  
Philadelphia, PA 19101

Estate of Myrtle E. Vereance  
c/o Tesman  
3 Hasbrouck Ave.  
Highland, NY 12528

Duffy, James H. & Phyllis C.  
PO Box 214  
Vails Gate, NY 12584

Bergknoff, Irwin  
Route 32  
Highland Mills, NY 10930

Babcock, Robert P.  
Box 537  
Vails Gate, NY 12584

Kelly, Katherine  
Box 38  
Vails Gate, NY 12584

4/8/96 Public Hearing - VGR Assoc./Golub. Corp Sign #96-4.

Name:

John Cappello

Address:

Jacobowitz & Gubitz  
158 Orange Ave  
Walden, NY 12584

Suggested.  
Traffic Study  
Safety

B. H. Harriott

9 Farrost Hill NW N.Y.

Greg Conson

24 Greenway Dr NW NY

objecting

ELISABETH MULVEY FILIPKOWSKI

373 BYRON LN. N.W. N.Y.

Carmela Mooney

68 Oakwood Terrace NW NY

Joe Riccio

12 Marlboro Ave NW NY

AL NASTA

10 H. Hunt Dr. Salisbury, Md. N.Y.

Mark Capretto

13 Louise Dr. ShopRite Employee

R Champagne

45 Riley Rd.

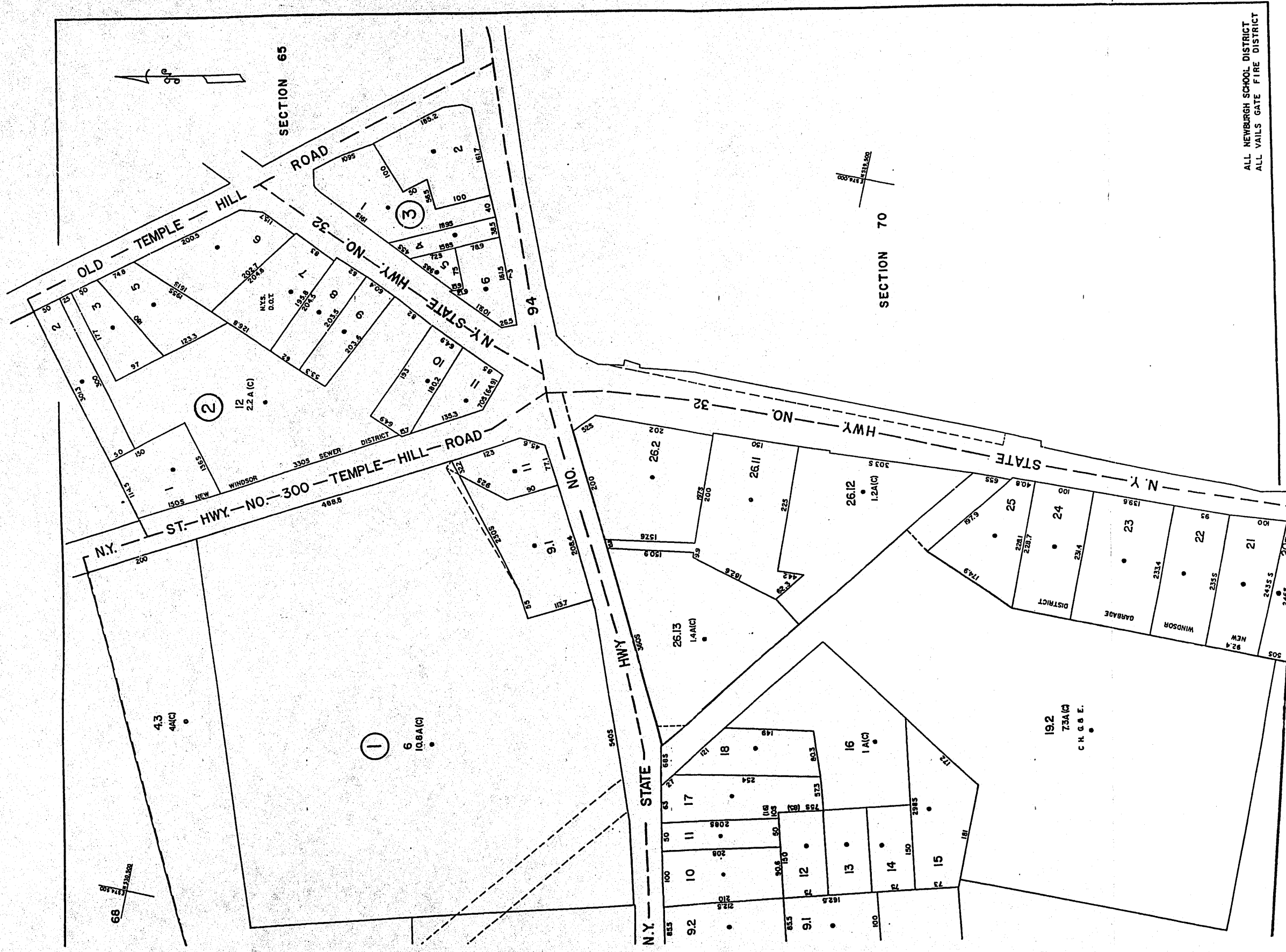
\*None w/i 500 ft.  
according to Assessor's List

Not Applicable

VGR ASSOC / GOLUB CORP

Herward POTTER, JACOBOWITZ & GOLITS, Esqs for SNT Corp  
PO Box 367  
Walden NY 12586

Bill HARVEY  
9 Forest Hill Rd  
New Windsor NY



ALL NEWBURGH SCHOOL DISTRICT  
ALL VAILS GATE FIRE DISTRICT

ORANGE COUNTY - NEW YORK

TOWN OF NEW WINDSOR

Photo No: 8-497,498-15-45  
Date of Photo: 3-1-65  
Date of Map: 9-24-67  
Date of Revision: 3-1-94

PLAN BLOCK NO.	69
PLAN LOT NO.	100
HIGHWAYS	N.Y. STATE HWY. NO. 17
ROADS	COUNTY HWY. NO. 4

Scale: 1" = 100'

539



LANDS N/F  
ROUTE 300 ASSOCIATES  
T.M.# 69-01-4.3

LANDS N/F  
ROUTE 300 ASSOCIATES  
T.M.# 69-01-4.3

LANDS N/F  
HOWARD & SARAH ETTINGER  
T.M.# 69-01-05

APPROXIMATE LOCATION 50' WIDE  
NEW YORK CITY AQUEDUCT



LEGEND

- SIGN POST
- F.P. FLAG POLE
- △ LAMP POLE
- LAMP POLE/CONC. BASE
- UTILITY POLE
- G.P. GUARD POST
- F.H. FIRE HYDRANT
- STONE WALL
- ELECTRIC LINE
- CHAIN LINK FENCE
- MH EXISTING MANHOLE
- CB (X) EXISTING CATCH BASIN

NOTES:

1. TAX MAP PARCEL # 69-1-6
2. TOTAL PARCEL AREA = 10.785 ± ACRES
3. TOTAL PARKING SPACES: 468  
(EXISTING SPACES: 390)

PROPOSED PARKING PLAN FOR VAILS GATE SHOPPING PLAZA V.G.R. ASSOCIATES		TOWN OF NEW WINDSOR, N.Y.	
DENNIS JUROW, Architect		P.C.	
FAIR OAKS P.O. BOX 146 MIDDLETOWN, NEW YORK 10840 (914) 381-1311		MEMBER OF THE AMERICAN INSTITUTE OF ARCHITECTS	
PARKING LAYOUT		JOB No.	DWG. NO.
DATE 10/27/14	SCALE 1" = 40'-0"		1 OF 1
REVISION	DRAWN BY	CHECKED BY	